

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FREDERICK D. KILMER,

Petitioner,

v.

CALIFORNIA STATE SUPREME
COURT,

Respondent.

Case No. [21-cv-06567-HSG](#)

**ORDER DENYING REQUEST FOR
COURT ORDER; GRANTING
EXTENSION OF TIME TO PAY
FILING OR FILE AN IN FORMA
PAUPERIS APPLICATION**

Re: Dkt. No. 10

On or about August 25, 2021, Petitioner filed the instant *pro se* petition for a writ of mandamus. Dkt. No. 1. On August 27, 2021, the Clerk notified Petitioner that this action was deficient because he had failed to either pay the filing fee or file an application to proceed *in forma pauperis*. Dkt. No. 2. Petitioner attempted to pay the filing fee by submitting a check in the amount of \$402.11. Dkt. No. 7. On October 1, 2021, that check was returned to him because it was not the exact amount of the filing fee, which is \$402.00. Dkt. No. 7. On October 13, 2021, the Court granted Petitioner an extension of time to November 22, 2021 to either submit full payment for the \$402.00 filing fee or submit a complete *in forma pauperis* application. Dkt. No. 8. Petitioner has since written the Court, detailing repeated efforts to pay the filing fee and prison officials' response. Dkt. Nos. 9, 10. Petitioner reports that the Inmate Trust Office has informed him that it may take up to 90 days before a new check is re-issued to ensure that this Court has not already accepted payment by electronic means for the check that was returned. Dkt. No. 10 at 2. Petitioner requests that the Court order the Inmate Trust Office at California Correctional Institution ("CCI") to re-issue another check in the amount of \$402.00, to refund him the overpayment of \$0.11 cents, and to not make a separate withdrawal of \$402.00 from his account. Dkt. No. 10. Petitioner's request is DENIED. The Court has no authority over the CCI Inmate


1 Trust Office. However, the Court requests that both the CCI Litigation Coordinator and the CCI
2 Inmate Trust Office assist Petitioner in paying the filing fee. The Court GRANTS Petitioner an
3 additional extension of time to **February 14, 2022**, which is more than 90 days after CCI received
4 the returned check, to either submit full payment for the \$402.00 filing fee or submit a complete *in*
5 *forma pauperis* application. Failure to comply with this order within the time provided will result
6 in dismissal of this action without prejudice without further notice to Petitioner.

7 The Clerk is directed to send courtesy copies of this order to both the CCI Litigation
8 Coordinator and the CCI Inmate Trust Office.

9 This order terminates Dkt. No. 10.

10 **IT IS SO ORDERED.**

11 Dated: 1/7/2022

12 
13 HAYWOOD S. GILLIAM, JR.
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28